



**US Army Corps  
of Engineers**  
Louisville District  
Detroit District

# Public Notice

File No.  
99-100-003-0

Date Issued:  
April 12, 2000

Expiration Date:  
February 11, 2005

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
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## NOTICE ANNOUNCING ISSUANCE OF A REGIONAL GENERAL PERMIT

This notice announces that on February 11, 2000, the Louisville and Detroit Districts U. S. Army Corps of Engineers (the Districts) issued a Regional General Permit (RGP), in accordance with Title 33 CFR 325.5 (C)(1), published in the Federal Register, Volume 51, No. 219, pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

COVERAGE AREA: All Section 10 waters and Section 404 waters in the State of Indiana.

### CATEGORIES OF ACTIVITIES COVERED BY THE REGIONAL PERMIT:

- 1) **New Construction:** This category authorizes activities associated with the construction or installation of new facilities or structures. Typically, these include residential, commercial, industrial, institutional, and recreational activities that have been granted a Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM), if required. Furthermore, these activities include but are not limited to streambank protection, filling and grading, dredging, channelization, boat mooring, launching ramps, stormwater, sediment, and erosion control activities, roads, infrastructures and utilities, provided the individual and cumulative impacts are minimal.
- 2) **Agriculture/Mining:** This category authorizes activities for agriculture and mining (excluding surface coal mining see NWP21). These include but are not limited to work or discharges of dredged or fill material associated with the buildings or work pads, stock piling of material, staging/loading/unloading areas, roads, land leveling, berms, dikes, dams, ditch construction, drainage facilities, and erosion and water control activities that have been granted a Section 401 WQC from IDEM, if required. This RGP does not affect those agricultural and mining activities that are exempt in accordance with 33 CFR Part 232.4.

EFFECTIVE DATE: February 11, 2000

### MAXIMUM LIMITATIONS:

- Discharges of dredged or fill material are limited to 1 acre or less of "waters of the United States," including wetlands;
- Dredging in navigable waters is limited to 10,000 cubic yards;

-Structures and fills for docking and mooring are limited to similar permitted structures and fills in the vicinity.

-Discharges of dredged or fill material into Lake Michigan are limited to 0.10 acre except for bank stabilization.

Impacts resulting from filling greater than 0.10 acre of special aquatic sites or work causing more than minimal effects will require mitigation to compensate for impacts to the stream, special aquatic sites or wetlands affected. Other work or structures in navigable waters will be evaluated and must include mitigation to reduce impacts to minimum levels.

RESTRICTIONS: See the terms and Special Conditions 1 through 13 of the attached Section 401 WQC. The work authorized by this RGP would also be subject to the attached General Conditions and any other Special Conditions necessary to reduce impacts to the minimum level.

IMPLEMENTATION PROCEDURES:

- a. Applicants proposing to conduct work in navigable waters or discharge dredged and/or fill material into all waters of the United States, including wetlands, must submit an application to the IDEM and furnish a copy to the Corps and the Indiana Department of Natural Resources (IDNR), Division of Water.
- b. The Districts will review all applications for project compliance with the terms, maximum limitations, and general conditions. Any individual project that fails to comply with all conditions could not be authorized under this RGP. The Districts will review the proposal to determine the coordination requirements with the U.S. Fish and Wildlife Service (USFWS) in accordance with the Endangered Species Act and with the Indiana State Historic Preservation Officer (SHPO) in accordance with the National Historic Preservation Act (see general conditions 13 and 14). Applicants will be notified if additional information is necessary to comply with these requirements.
- c. The applicant must immediately provide a copy of the 401 WQC to the appropriate Corps District. The District will respond in writing to all requests within 45 days.
- d. The Districts may, at their discretion, determine that the RGP is not appropriate and require an individual permit review of the proposal.

NOTIFICATION REQUIREMENTS: Project notification requires the submittal of an IDEM WQC application form or the standard Department of the Army (DA) permit application form ENG 4345 and must provide the information listed in 1 through 7 below. The IDEM's WQC application form is the preferred notification instrument. A copy of the application must be

submitted concurrently to IDEM, Office of Water Management, the IDNR, Division of Water, and the Corps District Office as follows:

- a. If the proposed discharge in Indiana waters would impact more than 0.10 acre, up to 1.0 acre, an application must be submitted to all three agencies.
- b. If the proposed discharge in Indiana waters would impact less than 0.10 acre, an application must be submitted to the IDEM and IDNR. The Corps does not require notification where the footprint of the fill is less than 0.10 acre unless located in navigable waters (see c).
- c. If the proposed discharge or if any work would be performed in navigable waters of Indiana (regardless of size) an application must be submitted to all three agencies.

Any request for this RGP must include the following information:

1. Name, address, and phone number of the general permittee.
2. Location of the proposed work to include Section, Township, Range; latitude and longitude or UTM.
3. Brief description, its purpose, the dimensions including the size of the structure or fill area, fill quantity and type of fill being used.
4. The names and addresses of all adjoining property owners.
5. Drawings on 8 ½ x 11-inch paper shall include a location map, plan and cross-section drawings illustrating all work to be done. These drawings shall provide the exact dimensions and scale.
6. A mitigation and monitoring plan, if applicable.
7. For any project that impacts jurisdictional wetlands, a wetland delineation is required and must conform to the Corps of Engineers' Wetland Delineation Manual, Technical Report Y-87-1. The site report with data forms should be provided.

#### EXCLUDED ACTIVITIES:

1. Activities that are denied any required local, State or Federal authorization.
2. Activities that the Districts determine to have the potential to cause unacceptable adverse impacts on aquatic resources or other public interest factors. The Districts may on a case by case basis require an individual DA permit. The Districts will notify the applicant that the project does not qualify for the RGP and instruct the applicant on the procedures to seek authorization under the standard Individual DA permit. The Districts may also require an Individual DA permit for any After-the-Fact applications and/or any unauthorized activity regardless of whether or not the discharge meets the 1-acre threshold limitation.

#### GENERAL CONDITIONS:

1. Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site). The permittee shall provide a mitigation/monitoring plan for any activity where the adverse impact on special aquatic sites exceeds 0.10 acre (4,356 sq. ft.) or is determined to be more than minimal impact. In determining the minimal impact threshold, the Districts will consider the direct and secondary impacts of the fill or work and any mitigation measures. A wetland delineation report is also required. NOTE: An important element of any mitigation plan for projects in or near streams, other open waters and wetlands is the requirement for vegetated buffers. Therefore, all mitigation plans should include a minimum 50-foot wide buffer between the edge of the project site and the waters and/or wetlands to be affected unless a lesser distance has been specifically approved under the RGP.
2. The permittee shall, if mitigation is required, develop the mitigation site concurrently with site construction. This will assure that aquatic functions are not lost for long periods of time which could adversely affect water quality and wildlife.
3. The permittee shall ensure that sedimentation and soil erosion control measures are in place prior to any construction activity. This shall include the installation of straw bale barriers, silt fencing and/or other approved methods to control sedimentation and erosion.
4. The permittee shall ensure that areas disturbed by any construction activity, including channel banks, are immediately stabilized and revegetated with a combination of grasses, legumes and shrubs compatible to the affected area.
5. The permittee shall ensure that all in-stream construction activity is not performed during periods of high stream flow or during the fish spawning season between April 1 through June 30 without first contacting the IDNR, Division of Fish and Wildlife for their expertise on impacts to the fishery resource. Additionally, the discharge of dredged and/or fill material in known waterfowl breeding areas must be avoided to the maximum extent practicable.
6. The permittee will ensure that the activity authorized will not disrupt movement of those aquatic species indigenous to the waterbody, including those species which normally migrate through the area unless the activity's specific purpose is to impound water.
7. The permittee shall ensure that all construction equipment is refueled and maintained on an upland site away from existing streams, drainageways and wetland areas. Heavy equipment working in wetlands must be placed on mats, or other measures taken to minimize soil disturbance.
8. The permittee must provide a copy of the site specific State Section 401 WQC before the Corps will authorize a project under the RGP.

9. The permittee must comply with any case specific special conditions added by the Corps or by the State Section 401 WQC. The conditions imposed in the State Section 401 WQC are also conditions of this RGP.

10. The permittee shall assure that no activity authorized by the RGP may cause more than a minimal adverse effect on navigation.

11. The permittee shall ensure proper maintenance of any structure or fill authorized by this RGP, including maintenance to ensure public safety.

12. The permittee shall not perform any work within any Wild and Scenic Rivers or in any river officially designated as a "study river" for possible inclusion in the system, unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity authorized by the RGP will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal Land Management agency in the area (e.g. U.S. Forest Service, Bureau of Land Management or the U.S. Fish and Wildlife Service).

13. The permittee shall not perform any work under the RGP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. The permittee shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work under the RGP until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Authorization of an activity under the RGP does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act.

14. The permittee shall not perform any activity under the RGP which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The permittee must notify the District Engineer if the activity authorized by the RGP may affect any historic properties listed, determined to be eligible or which the permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin construction until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology.

If the permittee discovers any previously unknown historic or archaeological remains while accomplishing the activity authorized by the RGP, work must be immediately stopped and this office immediately notified of what you have found. The District will initiate the Federal, tribal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

15. The permittee shall not perform any work under the RGP where the discharge of dredged and/or fill material would occur in the proximity of a public water supply intake except where the activity is for the repair of the public water supply structure or adjacent bank stabilization.

16. No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material may consist of unsuitable materials (e.g. trash, debris, car bodies, asphalt, etc.) and that materials used for construction or discharge must be free from toxic pollutants in toxic amounts.

17. The permittee shall, to the maximum extent practicable, design the project to maintain pre-construction downstream flow conditions. Furthermore, the work must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose is to impound water) and that the structure or discharge of fill must withstand expected high flows. The project must provide, to the maximum extent practicable, for retaining excess flows from the site and for establishing flow rates from the site similar to pre-construction conditions.

18. The permittee shall ensure that if the activity approved by the RGP includes impoundment of water, measures will be taken to minimize adverse effects on the aquatic ecosystem caused by the accelerated passage of water and/or the restriction of flow.

19. The permittee shall ensure that all temporary fills, authorized under the RGP, be removed in their entirety and the affected areas returned to pre-construction elevation.

20. Representatives from the Corps of Engineers and/or IDEM may inspect any authorized activity or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the RGP, Section 401 WQC, and applicable laws.

21. All work authorized by this RGP must be completed by the expiration date of this RGP or 1 year after the date of the Corps authorization letter, whichever occurs later. If you find you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 3 months before the expiration date.

22. The permittee after completion of work under the RGP shall submit a signed certification letter regarding the completed work and required mitigation, if applicable. The certification letter will include a statement that the work was done in accordance with the RGP authorization

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including compliance with all general and special conditions and completion of mitigation work.

EXPIRATION DATE: This Regional General Permit will be in effect for a period of five (5) years. At the end of the 5-year period, the impact of the authorized activities will be evaluated and a decision made whether or not to renew this permit. Further, the Districts may, at any time during this 5-year period, alter, modify, or revoke this permit, should it be determined that such action would be in the overall public interest.

Information pertaining to this Regional General Permit including the Combined Decision Document is available for public examination during normal business hours upon prior request. Any questions pertaining to this regional permit should be addressed to Mr. Gerry Newell, CEORL-OP-FN at the address noted above and should refer to Regional General Permit No.1. Additionally, questions can be submitted by e-mail at [Gerry.D.Newell@lrl02.usace.army.mil](mailto:Gerry.D.Newell@lrl02.usace.army.mil). In Detroit District, you may contact Charlie Simon at 313-226-2221.

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Enclosure